



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

A-19681.

SEP 28 1927

The Honorable

The Postmaster General,

Washington, D. C.

Sir:

There has been received your letter of August 12, 1927, relative to the recording of a supplement to a lease from David T. Young and wife to the Government covering the rental of additional space on the first floor of the building in which the Greenlake post office station at Seattle, Washington, is located, the original lease being dated October 31, 1923, and covering a term of ten years. In connection with the matter you request a ruling as to when and in what circumstances Post Office Department agreements to extend existing lease agreements or leases for additional space required for post offices must be recorded and the legal basis therefor.

The act of April 24, 1920, 41 Stat. 578, authorizes the Postmaster General to lease premises for the use of post offices for a term not exceeding 20 years.

The act of June 30, 1926, 44 Stat. 688, authorizes the Postmaster General to rent quarters for postal purposes without entering into formal written contracts in any case where the amount of the rental does not

exceed \$1,000 per annum.

The act of January 26, 1927, 44 Stat. 1048, authorizes the Postmaster General to lease quarters for the housing of Government-owned automobiles for a term not exceeding 10 years.

Section 9 of the instructions printed on the standard form of the Government real-estate lease, as modified for use by the Post Office Department, provides that if the property leased is located in a state requiring the recording of leases care should be taken to comply with all such statutory requirements, in order to protect the tenant's rights.

In the leasing of premises for the use of post-offices, it appears that it has been customary for the Post Office Department to insert in all written leases a provision requiring the lessors, at their own cost, to have the leases duly recorded in the proper registry of deeds of the county wherein the premises are situated within the time required by any law to render it effective as notice. Presumably, the reason for requiring said leases to be recorded in all instances is to avoid the constant reference to State laws in order to distinguish between the States wherein the leases must be recorded to conform to the laws relative thereto and those States where the recording thereof is not required by the statutes.

The records of this office disclose that frequently the Post Office Department extends a formal lease for a period after its termination. Usually, the reasons are that the bids received for new quarters are considered exorbitant or the new quarters are not ready for occupancy. Where a lease has expired and the Government continues to hold over and occupy

the premises without any other or new agreement with the lessor, the law implies continuation of the tenancy upon the same terms and subject to the same covenants as those contained in the original contract. The Post Office Department also frequently accepts agreements for additional space for use of post offices during the terms of the formal leases. It appears that these agreements to extend such leases and to furnish additional space have not been heretofore recorded in the records of the county and state wherein the leased premises are situate.

In most jurisdictions there are recording acts applicable to leases which generally provide in substance that every lease of lands, or interest therein, for a period in excess of that designated by statute, must be recorded in the county or district where the land is situated, and a failure to so record will render the lease void as to subsequent encumbrancers and purchasers without notice, and for a valuable consideration, who first duly record conveyances. The word 'conveyance' as used in the recording act is usually construed as including a lease for a term of years. However, as between parties thereto, and as between a party and persons having actual notice thereof, it is generally held that a lease is effectual to pass the interest therein purported to be conveyed, even though it is not recorded as required by statute. The protection of the statutes does not extend to a person who claims no right or title in the premises demised by the unrecorded lease. But under some statutes an unrecorded lease for a term in excess of the period specified is wholly inoperative as a lease as be-

tween the parties, or as against third persons claiming under the lessor or the lessee. An unrecorded lease for a term less than that specified by the statute is valid even against third persons without actual notice. In the absence of a statutory requirement the recording of a lease is not essential. In this connection see 35 Corpus Juris, 1156-1158, and cases therein cited.

The purpose of recording the contracts or leases for premises rented as quarters for post offices and post office stations is to protect the Government's rights in the leased premises by giving notice to prospective lessees or purchasers of the existing tenancy. Therefore, when there are any changes in the tenure of such tenancy, by written supplemental agreements, either to extend existing leases for a period after their termination or to acquire additional space during the period of the original contracts, such supplemental agreements should be recorded in the records of the county and state wherein the leased premises are situated, in all cases where the original leases have been so recorded.

Your submission is answered accordingly.

Respectfully,

(Signed) J.R. McCarl

Comptroller General
of the United States.